

REMARKS

Claims 1-5, 7-19 and 24-33 are now pending in the application. Of these pending claims, Claims 6, and 20-23 have been cancelled from consideration, Claims 13-19 are allowed, Claims 1-10, 12, and 24-30 stand rejected, and Claim 11 is objected to. Claims 31-33 are new. Minor amendments have been made to the claims to simply overcome the rejections of the claims under 35 U.S.C. § 112. The amendments to the claims contained herein are of equivalent scope as originally filed and, thus, are not a narrowing amendment. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

DRAWINGS

The drawings stand objected to for certain informalities. Specifically, the Office Action states the drawings must show every feature of the invention specified in the claims. Applicant directs the Examiner's attention to Figures 13-17. Applicant notes that, by way of non-limiting example, the syringe (20) defines the second container, while the second cavity defining the vacuum reservoir can be found at (78). As such, Applicant respectfully asserts that Claim 28 is fully supported by the figures and specification of the instant application.

REJECTION UNDER 35 U.S.C. § 112

Claims 4, 5, and 9 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter

which Applicant regards as the invention. The Examiner's attention is respectfully directed to Claims 4, 5, and 9 which have been amended to overcome the objections.

REJECTIONS UNDER 35 U.S.C. § 102 & § 103

Claims 1, 6, 12, 24, and 25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lamborne, et al. (U.S. Pat. No. 6,073,759). Claims 2-5, 9, 10, and 26-29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lamborne, et al. (U.S. Pat. No. 6,073,759) in view of Smith (U.S. Pat. No. 6,286,670). Claims 7, 8, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable as applied to Claims 6 and 26 above, and further in view of Raulerson (U.S. Pat. No. 5,045,065). In view of the amendments and arguments herein, these rejections are respectfully traversed.

The Examiner's attention is directed to Claim 1 which has been amended to include the limitation that the system includes a mechanism configured to restrict the movement of the plunger when there is a vacuum in the syringe. As shown in Figure 13, when a vacuum is applied to the syringe body, the exemplary member 91 prevents the translation of the plunger within the syringe. Applicant notes that none of the references disclose or suggest this limitation.

The Examiner's attention is further directed to amended independent Claim 24. Claim 24 includes the limitation that a member is selectively disposed between the first and second containers. This member is configured to inhibit or allow reconstitution fluid to flow from the first container to the second container to hydrate the orthopedic material.

In rejecting Claim 24, the Examiner states that the first container of Lamborne, et al. '759 is inherently capable to hold reconstitution liquid and the second container is inherently capable to be a vacuum reservoir and to hold orthopedic material. Applicant respectfully traverses this characterization. Applicant notes that the Lamborne reference is specifically designed to provide prefilled packages containing dose medical gases. In this regard, the Lamborne reference teaches filling the syringe and the associated packaging with the medical gas. One skilled in the art would not look to the Lamborne reference to teach the selective inhibition of reconstitution fluid between two containers to hydrate orthopedic material.

ALLOWABLE SUBJECT MATTER

Applicant acknowledges that Claims 13-19 are under condition of allowance. Furthermore, Claim 11 stands objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Applicant has non-narrowingly amended Claim 11 into independent form including all the limitations of the base claim and any intervening claims. As such, Claim 11 in condition for allowance.


CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office

Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By: 
Richard W. Warner, Reg. No. 38,043
Christopher A. Eusebi, Reg. No. 44,672

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

RWAR/CAE/smb